

REMARKS

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

- Group I. Claims 1-16 and 24-28, drawn to a pharmaceutical composition comprising at least one modified RNA, classified in class 514, subclass 44.
- Group II. Claim 17, drawn to a method for vaccinating a subject against an infectious disease or cancer, comprising inoculating the subject with a pharmaceutical composition comprising at least one modified RNA, classified in class 514, subclass 44.
- Group III. Claim 18, drawn to a method for promoting tissue regeneration in a subject, comprising administering a pharmaceutical composition comprising at least one modified RNA, classified in class 514, subclass 44.
- Group IV. Claims 19-23, drawn to a method for modifying a nucleic acid sequence to generate a modified nucleic acid sequence having altered properties, wherein the nucleic acid sequence and the modified nucleic acid sequence encode an identical polypeptide, comprising generating a virtual reverse translation of the amino acid sequence to determine all codon sequences capable of encoding each amino acid of the amino acid sequence, classified in class 717, subclass 100.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group I, with traverse, Claims 1-16 and 24-28, drawn to a pharmaceutical composition comprising at least one modified RNA, classified in class 514, subclass 44.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define compositions and methods, with properties so distinct as to warrant separate Examination and Search. Claim 17 of Group II and claim 18 of Group III are drawn to methods of using the pharmaceutical composition of Group I and are, therefore, fundamentally related to Claims 1-16 and 24-28 of Group I, drawn to a pharmaceutical composition comprising at least one modified RNA. The search for any of the methods separately classified by the Examiner as the invention of Group II or III would require an additional search of the **identical** classes wherein the claims of Group I are classified, thus resulting in a duplicate search for the same material. Thus, Applicants submit that the Search and Examination of the entire Application, or, at least, of Groups II and III with Group I can be made without serious burden, and therefore the Examiner should examine all of the claims of the Application on the merits.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to Group I and Groups II and III is in order.

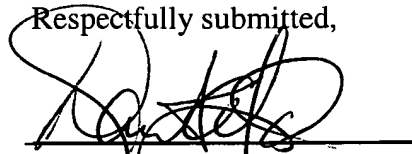
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No fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Jackson", is written over a horizontal line.

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